IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14241 of 2005

Between:

1 B.Ravinder S/o B. Rajender
R/o H. NO. 1-5-38/19, Maruthi Nagar, Kothapet, Ranga Reddy

District
2 B. Sanjay S/o B. Gnaneshwar
R/o H. NO. 1-5-38/19, Maruthi Nagar, Kothapet, Ranga Reddy

District

..... PETITIONERS

AND

The Commissioner, L.B. Nagar Municipality, Ranga Reddy district

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly one in the nature of Writ of Mandamus declaring the Notice issued by the Respondent-Municipality in Proceedings NO. TPS-1/1/2005 dated 28-6-2005 as arbitrary, illegal violative of principles of natural justice and Articles 14 and 300-A of the Constitution of India and set aside same; and consequently direct the Respondent-Municipality not to interfere with the peaceful possession and enjoyment of the petitioners in respect of H.No. 1-5-74/7/4, admeasuring 1630.67 sq. yards, situated at Maruthi Ngar, Kothapet, Ranga Reddy District.

Counsel for the Petitioner:MR.E.MADAN MOHAN RAO

Counsel for the Respondent: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court at the admission made the following O R D E R:

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THE HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.14241 OF 2005

O R D E R:

This writ petition is filed challenging the impugned notice issued by the respondent-Municipality in proceedings No.TPS-1/1/2005 dated 28.06.2005 directing the petitioners to remove the compound wall in an extent of 333.33 sq. yards within 24 hours of the notice, failing which, the encroachment will be removed departmentally without issuing any further notice and the expenditure incurred for the removal will be recovered from the petitioners under Section 361(1) of A.P. Municipalities Act, 1965.

The petitioners contend that they have not encroached the road margin/municipal property by way of constructing compound wall in an extent of 333.33 sq. yards and they are in possession and enjoyment in respect of house bearing No.1-5-74/7/4, admeasuring 1630.67 sq. yards and constructed the compound wall in the year 1990. They also contend that the respondent-Municipality has never informed that they have encroached the municipal property. The grievance of the petitioners is that the respondent-Municipality without issuing any show-cause notice, straight away issued the impugned notice dated 28.06.2005.

Heard the learned counsel for the petitioners and the learned counsel for the respondent-Municipality.

Admittedly, the respondent-Municipality without issuing any show-cause notice issued the impugned notice dated 28.06.2005 violating the principles of natural justice. For similar action, this Court, in a particular judgment, found fault with the Municipal Corporation of Hyderabad.

Considering the facts and circumstances of the case, I deem it appropriate to direct the petitioner to submit his explanation to the above said show cause notice within a period of two weeks from today. Thereafter, eight weeks time is granted to

the respondent-Municipality to pass appropriate orders in accordance with law. Till such time, respondent-Municipality is directed not to take coercive steps to demolish the compound wall.

Accordingly, the writ petition is disposed of. No order as to costs.

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01.07.2005

Note:Wire at party's costs.

B/o

Usd

To

1 The Commissioner, L.B. Nagar Municipality, Ranga Reddy district

2 2 CD copies

3 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)